

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN ASSEMBLY JANUARY 6, 2014

AMENDED IN ASSEMBLY SEPTEMBER 11, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1153

Introduced by Assembly Member Eggman
(Coauthor: Senator Wyland)

February 22, 2013

An act to amend Sections 7312, 7316, 7320, 7324, 7396, and 7423 of, and to add Sections 7320.6, 7320.7, 7324.5, and 7364.5 to, the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

AB 1153, as amended, Eggman. Master esthetician: license.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers and cosmetologists, including the practice of skin care by licensed estheticians, by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. The act defines skin care and requires an applicant for an esthetician license to complete an application, pay an application and examination fee, pass the examination, and meet other educational and practice qualifications such as the completion of an approved skin care course of instruction that includes no less than 600 hours of practical training and technical instruction that accords with the curriculum established by the board. A violation of the act is a crime, unless otherwise provided.

This bill would modify the practice of cosmetology by including the practice of giving facials ~~and the~~, *the* use of esthetic devices, as defined, *and performing superficial exfoliation*, and *would* modify the practice of skin care, by including the use of esthetic devices, as defined, *and performing superficial exfoliation* for these purposes. The bill would provide for the licensure and regulation of master estheticians, as defined. The bill would require an applicant for a master esthetician license, pursuant to board regulations, to complete an application, pay an application and examination fee, pass the examination, and meet other educational and practice qualifications, such as the completion of a 1,200-hour master esthetics course approved by the board. The bill would provide that a master esthetics course is required to consist of not less than 1,200 hours of practical training and technical instruction in accordance with a curriculum established by board regulation, *but an applicant enrolling in a master esthetician course who has completed the 600-hour esthetician course from a board-approved school would only be required to obtain the additional 600 hours of practical and technical training not received in the initial 600-hour esthetician course.* The bill would also prohibit a person who is not licensed as an esthetician or as a master esthetician from representing himself or herself as an esthetician or as a master esthetician, respectively. The bill would also clarify that the prohibition on those licensed to engage in barbering, cosmetology, skin care, nail care, and electrolysis to practice medicine or surgery ~~extends to~~ *would include, but not be limited to, the use of radiographs, the furnishing of drugs or invasive devices, supervising medical personnel, or diagnosing injury, illness, or disease.* Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 7312 of the Business and Professions*
- 2 *Code is amended to read:*

7312. The board shall do all of the following:

(a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.

(b) Conduct and administer examinations of applicants for licensure.

(c) Issue licenses to those applicants that may be entitled ~~thereto~~, *thereto, and encourage those licensees to continue to develop their skills in the appropriate application and use of evolving industry techniques, products, and equipment by recognizing industry certifications that meet appropriate standards approved by the board.*

(d) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.

(e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the board, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of *Part 1 of Division 3 of Title 2 of the Government Code*, and shall be submitted to the State Department of Health Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

SECTION 1.

SEC. 2. Section 7316 of the Business and Professions Code is amended to read:

7316. (a) The practice of barbering is all or any combination of the following practices:

(1) Shaving or trimming the beard or cutting the hair.

(2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.

(3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, dyeing the hair, or applying hair tonics.

(4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp, face, or neck.

(5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

(2) Giving facials or the practice of massaging, stimulating, exfoliating, cleansing, or beautifying the face, scalp, neck, or upper part of the human body by use of hands, esthetic devices, cosmetic preparations, antiseptics, lotions, tonics, or creams.

(A) Esthetic devices; include, but are not limited to, steamers, mechanical brushes, high frequency, galvanic current, vacuum and spray, light emitting diode (LED), and skin analysis equipment.

(B) Esthetic devices shall be operated in accordance with the manufacturer's written instructions. The devices shall be intended for improving the appearance of the skin and shall be *operated* within the following guidelines:

(i) Noninvasive, pursuant to United States Food and Drug Administration guidelines.

(ii) Not designed to ablate or destroy live tissue.

(3) *Performing superficial exfoliation procedures on the top layer of the skin (stratum corneum) using commercially available products, in accordance with the manufacturer's written instructions, including, but not limited to, all of the following:*

(A) *Manual scrubs, including mechanical brush use, which includes application of a cosmetic product with mild abrasive ingredients that remove dead skin cells.*

(B) *Superficial chemical exfoliation of the stratum corneum.*

(C) *Enzyme or herbal exfoliation of the stratum corneum.*

(D) *Extraction with a nonneedle extraction tool. Extraction includes the manual removal of comedones (blackheads) and other surface impurities with the use of fingers or sterile swabs.*

(E) *Mechanical exfoliation devices such as microdermabrasion.*

~~(3)~~

(4) Removing superfluous hair from the body of any person by the use of ~~depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or~~

1 ~~description, except by the use of lasers or light waves, commonly~~
2 ~~known as rays: tweezers, sugaring, nonprescription chemicals,~~
3 ~~waxing, or mechanical means.~~

4 (5) Applying makeup or eyelashes to any person.

5 ~~(4)~~

6 (6) Cutting, trimming, polishing, tinting, coloring, cleansing,
7 or manicuring the nails of any person.

8 ~~(5)~~

9 (7) Massaging, cleansing, treating, or beautifying the hands or
10 feet of any person.

11 (c) Within the practice of cosmetology there exist the specialty
12 branches of skin care and nail care.

13 (1) Skin care is any one or more of the following practices:

14 (A) Giving facials or the practice of massaging, stimulating,
15 exfoliating, cleansing, or beautifying the face, scalp, neck, or upper
16 part of the human body by use of hands, esthetic devices, cosmetic
17 preparations, antiseptics, lotions, tonics, or creams *that does not*
18 *result in ablating or destroying live tissue.*

19 (i) Esthetic devices; include, but are not limited to, steamers,
20 mechanical brushes, high frequency, galvanic current, vacuum and
21 spray, light emitting diode (LED), and skin analysis equipment.

22 (ii) Esthetic devices shall be operated in accordance with the
23 manufacturer's written instructions. The devices shall be intended
24 for improving the appearance of the skin and shall be *operated*
25 within the following guidelines:

26 (I) Noninvasive, pursuant to United States Food and Drug
27 Administration guidelines.

28 (II) Not designed to ablate or destroy live tissue.

29 (B) Performing superficial exfoliation procedures on the top
30 layer of the skin (stratum corneum) using commercially available
31 products, in accordance with the manufacturer's written
32 instructions, including, but not limited to, all of the following:

33 (i) Manual scrubs, including mechanical brush use, which
34 includes application of a cosmetic product with mild abrasive
35 ingredients that remove dead skin cells.

36 (ii) Superficial chemical exfoliation of the stratum corneum.

37 (iii) Enzymes or herbal ~~exfoliators, or both.~~ *exfoliation of the*
38 *stratum corneum.*

(iv) Extraction with a nonneedle extraction tool. Extraction includes the manual removal of comedones (blackheads) and other surface impurities with the use of fingers or sterile swabs.

(v) Mechanical exfoliation devices such as microdermabrasion.

(C) Removing superfluous hair from the body of any person by the use of depilatories, tweezers, sugaring, chemicals, waxing, or mechanical means. ~~This practice does not include the use of lasers or light waves, commonly known as rays.~~

(D) Applying makeup or eyelashes to any person.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

“Electrolysis” as used in this chapter includes electrolysis or thermolysis.

1 (g) *Nothing in this section shall be interpreted to allow a*
2 *licensee to use lasers.*

3 ~~SEC. 2.~~

4 SEC. 3. Section 7320 of the Business and Professions Code is
5 amended to read:

6 7320. This chapter does not confer authority to practice
7 medicine or surgery, including, *but not limited to, the use of*
8 *radiographs, the furnishing of drugs or invasive devices,*
9 *supervising medical personnel, or* diagnosing injury, illness, or
10 disease.

11 ~~SEC. 3.~~

12 SEC. 4. Section 7320.6 is added to the Business and Professions
13 Code, to read:

14 7320.6. A person who is not licensed as an esthetician in this
15 state shall not represent himself or herself as an esthetician.

16 ~~SEC. 4.~~

17 SEC. 5. Section 7320.7 is added to the Business and Professions
18 Code, to read:

19 7320.7. A person who is not licensed as a master esthetician
20 in this state shall not represent himself or herself as a master
21 esthetician.

22 ~~SEC. 5.~~

23 SEC. 6. Section 7324 of the Business and Professions Code is
24 amended to read:

25 7324. The board shall admit to examination for a license as an
26 esthetician to practice skin care any person who has made
27 application to the board in proper form and paid the application
28 and examination fee required by this chapter, and who is qualified
29 as follows:

30 (a) Is not less than 17 years of age.

31 (b) Has completed the 10th grade or its equivalent.

32 (c) Is not subject to denial pursuant to Section 480.

33 (d) Has done any of the following:

34 (1) Completed a course in skin care, as described in Section
35 7364, from a school approved by the board.

36 (2) Practiced skin care, as defined in this chapter, outside of this
37 state for a period of time equivalent to the study and training of a
38 qualified person who has completed a course in skin care from a
39 school the curriculum of which complied with requirements
40 adopted by the board. Each three months of practice shall be

1 deemed the equivalent of 100 hours of training for qualification
2 under paragraph (1).

3 (3) Completed the apprenticeship program in skin care specified
4 in Article 4 (commencing with Section 7332).

5 ~~SEC. 6.~~

6 *SEC. 7.* Section 7324.5 is added to the Business and Professions
7 Code, to read:

8 7324.5. (a) The board shall admit to examination for a license
9 as a master esthetician to practice skin care, in accordance with
10 regulations adopted by the board for this purpose, any person who
11 has made application to the board in proper form and paid the
12 application and examination fee required by this chapter, and who
13 is qualified as follows:

14 (1) Is not less than 17 years of age.

15 (2) Has completed the 10th grade or its equivalent.

16 (3) Is not subject to denial pursuant to Section 480.

17 (4) Has done at least one of the following:

18 (A) Completed a course in skin care as described in Section
19 7364.5 from a school approved by the board.

20 (B) Earned a national or international diploma or certification
21 in advanced or master esthetics that is recognized by the board.

22 ~~(C) Holds a current esthetician's license pursuant to Section~~
23 ~~7324 and either:~~

24 ~~(i) On or before January 1, 2018, practiced esthetics, as defined~~
25 ~~in this chapter, for a period of time equivalent to the study and~~
26 ~~training of a qualified person who has completed a course in master~~
27 ~~esthetics from a school the curriculum of which complied with the~~
28 ~~requirements adopted by the board, during two of the last four~~
29 ~~years. An applicant applying for the master esthetician examination~~
30 ~~pursuant to this clause may take the examination only twice. If the~~
31 ~~applicant fails to pass the test on the second attempt, he or she is~~
32 ~~required to qualify for the examination after completing the~~
33 ~~required coursework as described in subparagraph (A).~~

34 ~~(ii) Has completed continuing education coursework in skin~~
35 ~~care that complies with requirements established by the board.~~

36 ~~(C) On or before January 1, 2018, holds a unexpired~~
37 ~~cosmetologist or esthetician's license pursuant to Section 7324~~
38 ~~and meets all of the following requirements:~~

39 ~~(i) The license has not been revoked, suspended, or otherwise~~
40 ~~restricted.~~

1 (ii) *The licensee is in good standing.*

2 (iii) *The license has been active for at least three of the last five*
3 *years, during which time the applicant has not been subject to*
4 *disciplinary action or a criminal conviction.*

5 (D) *Practiced as a master esthetician, as defined in this chapter,*
6 *outside of this state for a period of time equivalent to the study*
7 *and training of a qualified person who has completed a course in*
8 *master esthetics from a school the curriculum of which complied*
9 *with the requirements adopted by the board. Each three months*
10 *of practice shall be deemed the equivalent of 100 hours of training*
11 *for qualification under subparagraph (A).*

12 (E) *If the applicant who has been qualified to sit for the*
13 *examination pursuant to subparagraph (C), fails to pass the test*
14 *on the second attempt, he or she is required to qualify for the*
15 *examination after completing the required coursework as described*
16 *in subparagraph (A).*

17 (b) A licensed master esthetician may perform, in addition to
18 the practice of skin care as defined in paragraph (1) of subdivision
19 (c) of Section 7316, all of the following:

20 (1) Exfoliation procedures on the face and body using
21 commercially available products in accordance with the
22 manufacturer's written instructions, including, but not limited to,
23 any of the following:

24 (A) Superficial and ~~light~~ chemical exfoliation preparations
25 intended to work within the epidermal layers of the skin.

26 (B) The combination of cosmetic preparations intended for light
27 and superficial exfoliation results.

28 (2) Services using devices or the combination of devices on the
29 face and body. These devices shall be operated in accordance with
30 the manufacturer's written instructions. The devices shall be
31 intended for improving the appearance of the skin and shall be
32 within the following guidelines:

33 (A) Noninvasive, pursuant to United States Food and Drug
34 Administration guidelines.

35 (B) Not designed to ablate or destroy live tissue.

36 (3) Extraction techniques using a disposable lancet that is
37 required to be disposed of after each use according to local and
38 state requirements, and held in a secure location only accessible
39 to a licensed master esthetician. Extraction techniques with a
40 disposable lancet *shall only* include follicle dilation of closed

1 comedones (blackheads) or pustules. *For the purposes of this*
2 *paragraph, the following definitions apply:*

3 (A) *A disposable lancet is a sterile, small, pointed tool that is*
4 *used to prick the skin and sold for a single use.*

5 (B) *An extraction is the process of removing sebum, bacteria,*
6 *dead cells, and other waste from the skin follicle.*

7 (4) *Massage techniques on the face, upper body, back, scalp,*
8 *hands, and feet, for the purposes of beauty. This technique does*
9 *not include medical-lymph lymphodema therapies.*

10 (5) *Body treatments that use water, appliances, devices, and*
11 *cosmetic preparations intended to improve the appearance of the*
12 *skin.*

13 (c) *Nothing in this section shall be interpreted to allow a*
14 *licensee to use lasers.*

15 ~~SEC. 7.~~

16 SEC. 8. Section 7364.5 is added to the Business and Professions
17 Code, to read:

18 7364.5. (a) *A master esthetics course established by a school*
19 *shall consist of not less than 1,200 hours of practical training and*
20 *technical instruction in accordance with a curriculum established*
21 *by board regulation. The master esthetics course is not a*
22 *requirement of obtaining an esthetician license.*

23 (b) *An applicant enrolling in a 1,200-hour master esthetician*
24 *course who has completed the 600-hour esthetician course from*
25 *a board-approved school is only required to obtain the additional*
26 *600 hours of practical and technical training not received in the*
27 *initial 600-hour esthetician course.*

28 ~~SEC. 8.~~

29 SEC. 9. Section 7396 of the Business and Professions Code is
30 amended to read:

31 7396. The form and content of a license issued by the board
32 shall be determined in accordance with Section 164.

33 The license shall prominently state that the holder is licensed as
34 a barber, cosmetologist, esthetician, master esthetician, manicurist,
35 electrologist, or apprentice, and shall contain a photograph of the
36 licensee.

37 ~~SEC. 9.~~

38 SEC. 10. Section 7423 of the Business and Professions Code
39 is amended to read:

1 7423. The amounts of the fees required by this chapter relating
2 to licenses for individual practitioners are as follows:

3 (a) (1) Cosmetologist application and examination fee shall be
4 the actual cost to the board for developing, purchasing, grading,
5 and administering the examination.

6 (2) A cosmetologist initial license fee shall not be more than
7 fifty dollars (\$50).

8 (b) (1) An esthetician application and examination fee shall be
9 the actual cost to the board for developing, purchasing, grading,
10 and administering the examination.

11 (2) An esthetician initial license fee shall not be more than forty
12 dollars (\$40).

13 (c) (1) A master esthetician application and examination fee
14 shall be the actual cost to the board for developing, purchasing,
15 grading, and administering the examination.

16 (2) A master esthetician initial license fee shall not be more
17 than forty dollars (\$40).

18 (d) (1) A manicurist application and examination fee shall be
19 the actual cost to the board for developing, purchasing, grading,
20 and administering the examination.

21 (2) A manicurist initial license fee shall not be more than
22 thirty-five dollars (\$35).

23 (e) (1) A barber application and examination fee shall be the
24 actual cost to the board for developing, purchasing, grading, and
25 administering the examination.

26 (2) A barber initial license fee shall be not more than fifty dollars
27 (\$50).

28 (f) (1) An electrologist application and examination fee shall
29 be the actual cost to the board for developing, purchasing, grading,
30 and administering the examination.

31 (2) An electrologist initial license fee shall be not more than
32 fifty dollars (\$50).

33 (g) An apprentice application and license fee shall be not more
34 than twenty-five dollars (\$25).

35 (h) The license renewal fee for individual practitioner licenses
36 that are subject to renewal shall be not more than fifty dollars
37 (\$50).

38 (i) Notwithstanding Section 163.5 the license renewal
39 delinquency fee shall be 50 percent of the renewal fee in effect on
40 the date of renewal.

1 (j) Any preapplication fee shall be established by the board in
2 an amount sufficient to cover the costs of processing and
3 administration of the preapplication.

4 ~~SEC. 10.~~

5 *SEC. 11.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.